

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:07CV398

TORREY S. TELLEFSEN,

Plaintiff,

Vs.

**UNITED STATES OF AMERICA and
STATE OF NORTH CAROLINA,**

Defendants.

)
)
)
)
)
)
)
)
)
)
)

ORDER OF DISMISSAL

THIS MATTER is before the Court on Plaintiff's complaint and application to proceed in *forma pauperis*, both filed December 20, 2007.

The Court finds from the application filed herein that Plaintiff is unable to make prepayment of the fees or costs or provide security therefor and the application should be allowed.

The Court also holds, however, that Plaintiff's action should be dismissed *sua sponte* pursuant to 28 U.S.C. § 1915(e)(2). Section 1915 provides, in pertinent part, that "the court *shall* dismiss the case at any time if the court determines that . . . the action . . . (i) is frivolous or malicious; [or] (ii) fails to state a claim on which relief may be granted[.]" **28 U.S.C. §**

1915(e)(2)(B) (emphasis added). Under this statutory proscription, the district court must dismiss such a case, and it is the intent of Congress that such dismissals occur prior to service of the complaint on defendants.

***Cochran v. Morris*, 73 F.3d 1310, 1315 (4th Cir. 1996); *White v. White*, 886 F.2d 721 (4th Cir. 1989).**

In the instant case, Plaintiff requests the Court to overturn two state criminal convictions that he has received, and also to “[o]verturn all state and federal laws . . . that prohibit the plaintiff from using marijuana, steroids, or human growth hormone.” **Complaint, filed December 20, 2007, at 4.** As these requests are not only frivolous but also fail to state any claim upon which relief can be granted, the complaint must be dismissed.

IT IS, THEREFORE, ORDERED that Plaintiff’s application to proceed in *forma pauperis* is **ALLOWED**, and he is hereby permitted to file and prosecute this action to its conclusion without the prepayment of either fees or costs and without providing security therefor; and

IT IS FURTHER ORDERED that the complaint is **DISMISSED WITH PREJUDICE** under 28 U.S.C. § 1915(e)(2)(B).

Signed: December 27, 2007

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

